

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00874R

Parcel No. 241/00445-540-000

Peter and Melody Dean,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Peter and Melody Dean were self-represented and requested their appeal without hearing. Assistant County Attorney Christina Gonzalez is counsel for the Polk County Board of Review.

The subject property is a two-story residential home located at 6722 River Bend, Johnston. It was built in 2003 and has 2798 square feet of living area. It also has 1100 square feet of living-quarters basement finish; a deck; an open porch; and an attached three-car garage. The site is 0.367 acres.

The property's January 1, 2015, assessment was \$349,600, allocated as \$64,100 in land value and \$285,500 to dwelling value. The Deans protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition. The Deans then appealed to this Board asserting the correct assessment is \$332,917.

Findings of Fact

The following chart is a summary of the four properties the Deans submitted as equity comparables to the Board of Review.

	2015 Assessed Value	Grade	Gross Living Area (GLA)	Year Built	Basement Finish	AV/SF
Subject	\$349,600	2-10	2798	2003	1100	\$124.95
6751 Eagle Ridge Dr	\$312,500	3+05	2460	1997	1150	\$127.03
6739 Eagle Ridge Dr	\$297,800	2-10	2367	1999	0	\$125.81
6692 Eagle Ridge Dr	\$318,100	2-10	2701	2002	0	\$117.77
6660 Eagle Ridge Dr	\$274,600	3+00	2328	2004	0	\$117.96

In a letter to PAAB, the Board of Review was critical of this evidence, noting that only two of the properties have a similar grade (quality) as the subject. (Ex. H). The Board of Review explained that one example of a lower quality grade is the differences in the properties' rooflines. It provided aerials of the subject property and the two lower-grade comparables (6751 and 6660 Eagle Ridge Drive) to demonstrate this difference. (Exs. A-C). PAAB further notes the properties with the same grade (2-10) lack any basement finish compared to the subject, which has 1100 of living-quarter quality finish; this difference would affect the assessed values. Moreover, none of the properties recently sold; and the Deans did not submit any other opinion of market value for the properties. Therefore, an assessment/sale ratio analysis, which is necessary to support an equity claim, could not be developed.

Because of the Board of Review's criticism regarding the grade of the properties, the Deans submitted eleven additional properties located in their neighborhood that they assert have similar 2-10 grades. The properties are summarized in the following chart.

	Sale Price	Assessed Value
Subject	\$294,020	\$349,600
6746 River Bend	\$267,500	\$333,500
6788 River Bend	\$305,900	\$367,300
4590 River Forest Cr	\$308,000	\$308,600
4572 River Forest Cr	\$385,000	\$339,900
6739 Eagle Ridge	\$297,800	\$286,900
6708 River Bend	\$312,100	\$358,000
6651 Eagle Ridge	\$309,700	\$309,700
6676 River Bend	N/A	\$317,800
6737 River Bend	\$380,400	\$361,300
6763 River Bend	\$305,000	\$344,300
6692 Eagle Ridge	\$198,340	\$318,100

The Deans did not provide any other information about these properties, and we are unable to determine if they are comparable to the subject. A sale price was provided for almost every property, but no sale dates. The subject property sold in 2003, but an assessment/sales ratio analysis requires a sale price or opinion market of value for the year *preceding* the assessment, in this instance, 2014.

The Board of Review submitted seven properties for an equity analysis. (Ex. D-H). Only one sold in 2014, however, and more than one comparable is required to complete an assessment/sales ratio analysis. For this reason, we give the Board of Review's evidence no consideration.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred

percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Deans offered four properties they considered comparable to theirs for an equity analysis to the Board of Review. There is no information in the record indicating any of these properties has recently sold; and they did not submit evidence of the properties' market values to complete an assessment/sales ratio analysis. They then submitted eleven additional properties of similar grade. Although they listed sale prices for each property, the date of sale is unknown. Additionally, there is no information in the record about the properties to determine if they are comparable to the subject, despite being similar grades.

The Board of Review also submitted sales for an equity analysis. However, only one sale occurred recently, which is insufficient for an assessment/sales ratio analysis.

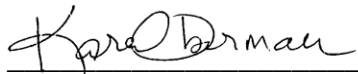
For the foregoing reasons, the Board finds that the Deans failed to show their property is inequitably assessed as compared to like properties.

Order

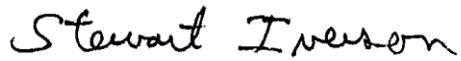
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 11th day of February 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Peter and Melody Dean

Christina Gonzalez